commonly referred to as ''micro-hydropower'' and ''mini-hydropower.''

(j) The project has demonstrated technical feasibility.

(k) No renewable energy system or energy efficiency improvement, or portion thereof, can be used for any residential purpose, including any residential portion of a farm, ranch, agricultural facility, or rural small business. However, an applicant may apply for funding for the installation of a second meter or provide certification in the application that any excess power generated by the renewable energy system will be sold to the grid and will not be used by the applicant for residential purposes.

§4280.114 Qualification for simplified applications.

When applying for a RES or EEI grant, applicants may qualify for the simplified application process. In order to use the simplified application process, each of the conditions specified in paragraphs (a)(1) through (a)(8) of this section must be met.

(a) *Simplified application criteria.*

(1) The applicant must be eligible in accordance with §4280.112.

(2) The project must be eligible in accordance with §4280.113.

(3) Total eligible project costs must be $200,000 or less.

(4) The proposed project must use commercially available renewable energy systems or energy efficiency improvements.

(5) Construction planning and performing development must be performed in compliance with §4280.119. The applicant or the applicant's prime contractor must assume all risks and responsibilities of project development.

(6) The applicant or the applicant's prime contractor is responsible for all interim financing.

(7) The proposed project is scheduled to be completed within 2 years after entering into a grant agreement. The Agency may extend this period if the Agency determines, at its sole discretion, that the applicant is unable to complete the project for reasons beyond the applicant's control.

(8) The applicant agrees not to request reimbursement from funds obligated under this program until after project completion, including all operational testing and certifications acceptable to the Agency.

(b) *Application processing and administration.*

(1) *Application documents.* Application documents shall be submitted in accordance with §4280.116 or, if applying for a combined grant and loan, also in accordance with §4280.165(c).

(2) *Project development.* Section 4280.119 applies, except as follows:

(i) Any grantee may participate in project development without direct compensation subject to the approval in writing by the prime contractor, provided that all applicable construction practices, manufacturer instructions, and all safety codes and standards are followed during construction and testing, and the work product meets all applicable manufacture specifications, and all applicable codes and standards. The prime contractor remains responsible for the overall successful completion of the project, including any work done by the grantee, or

(ii) A grantee who can demonstrate to the Agency that the grantee has the necessary experience and other resources to successfully complete the project may serve as the prime contractor/installer. Projects where the grantee serves as the prime contractor will need to secure the services of an independent, professionally responsible, qualified consultant to certify testing specifications, procedures, and testing results.

(3) *Project completion.* The project is complete when the applicant has provided a written final project development, testing, and performance report acceptable to the Agency. Upon notification of receipt of an acceptable project completion report, the applicant may request grant reimbursement. The Agency reserves the right to observe the testing.

(4) *Insurance.* Section 4280.118 applies, except business interruption insurance is not required.

§4280.115 RES and EEI grant funding.

(a) The amount of grant funds that will be made available to an eligible RES or EEI project under this subpart

will not exceed 25 percent of total eligible project costs. Eligible project costs are specified in paragraph (c) of this section.

(b) The applicant is responsible for securing the remainder of the total eligible project costs not covered by grant funds. The amount secured by the applicant must be the remainder of total eligible project costs.

(1) Without specific statutory authority, other Federal grant funds cannot be used to meet the matching fund requirement.

(2) Passive third-party equity contributions are acceptable for renewable energy system projects, including those that are eligible for Federal production tax credits, provided the applicant meets the requirements of § 4280.112.

(c) Eligible project costs are only those costs associated with the items identified in paragraphs (c)(1) through (c)(10) of this section, as long as the items are an integral and necessary part of the renewable energy system or energy efficiency improvement.

(1) Post-application purchase and installation of equipment (new, refurbished, or remanufactured), except agricultural tillage equipment, used equipment, and vehicles.

(2) Post-application construction or improvements, except residential.

(3) Energy audits or assessments.

(4) Permit and license fees.

(5) Professional service fees, except for application preparation.

(6) Feasibility studies and Technical reports.

(7) Business plans.

(8) Retrofitting.

(9) Construction of a new energy efficient facility only when the facility is used for the same purpose, is approximately the same size, and, based on the energy assessment or audit, will provide more energy savings than improving an existing facility. Only costs identified in the energy assessment or audit for energy efficiency improvements are allowed.

(10) Energy efficiency improvements are limited to only improvements identified in the energy assessment or audit. Equipment identified by the assessment or audit to be replaced shall be replaced with equipment similar in capacity. If the energy efficiency improvement has a greater capacity than the existing equipment, the Agency will pro-rate the energy efficiency improvement's total eligible project costs based on the capacity of the existing equipment. A calculation shall be performed by dividing the capacity of the existing equipment by the capacity of the proposed equipment to determine the percentage of the energy efficiency improvement's eligible project costs that the Agency will use in determining the maximum grant assistance under this subpart (see example).

Example. A business plans to build a new production line with a capacity of 625 units per hour to replace an existing production line that produces 500 units per hour. The total project costs of the new production line is $20,000, of which $15,000 would otherwise qualify as eligible project costs. However, because the new production line has a greater production capacity than the existing line (625 units per hour versus 500 units per hour), only a portion of the $15,000 of otherwise eligible project costs would be used in determining total eligible project cost and the maximum grant assistance available. In this example, because the original capacity (500 units per hour) is 80 percent of the new capacity (625 units per hour), only 80 percent of the $15,000 of otherwise eligible project costs associated with the new production line (*i.e.*, $12,000) will be considered as total eligible project cost to be financed under this subpart. The maximum grant award in this example would be $3,000, which is equal to $12,000 × 25 percent.

(d) The maximum amount of grant assistance to one individual or entity will not exceed $750,000 per Federal fiscal year. For those applicants that have not received a grant award during the previous 2 Federal fiscal years, additional points will be added to their priority score.

(e) Applications for renewable energy system grants will be accepted for a minimum grant request of $2,500 up to a maximum of $500,000.

(f) Applications for energy efficiency improvement grants will be accepted for a minimum grant request of $1,500 up to a maximum of $250,000.

(g) In determining the amount of a RES or EEI grant awarded, the Agency will take into consideration the following six criteria:

(1) The type of renewable energy system to be purchased;

(2) The estimated quantity of energy to be generated by the renewable energy system;

(3) The expected environmental benefits of the renewable energy system;

(4) The quantity of energy savings expected to be derived from the activity, as demonstrated by an energy audit;

(5) The estimated period of time for the energy savings generated by the activity to equal the cost of the activity; and

(6) The expected energy efficiency of the renewable energy system.

(h) *Time limit.* Unless otherwise agreed to by the Agency, any renewable energy system or energy efficiency improvement grant agreement under this subpart will terminate 2 years from the date the Agency signs the agreement.

§4280.116 Application and documentation.

The requirements in this section apply to RES and EEI grant applications under this subpart.

(a) *General.* To ensure that projects are accurately scored by the Agency, applicants are requested to number each evaluation criteria and include, in that section, its corresponding supporting documentation and calculations according to §4280.117.

(1) *One funding type applications.* Only one type of funding application (grant-only, guaranteed loan-only, or guaranteed loan/grant combination) for each project can be submitted under this subpart per Federal fiscal year.

(2) *Environmental information.* Each application must include all environmental review documents with supporting documentation in accordance with 7 CFR part 1940, subpart G.

(3) *Foreign technology.* As stated in §4280.113(b), projects must be for a pre-commercial or commercially available technology. The Agency's position is that if the system is currently commercially available only outside the United States (U.S.), then applicants must provide authoritative evidence of the foreign operating history, performance, and reliability in order to address the proven operating history identified in the definition. ''Commercial'' applicants must provide evidence that professional service providers, trades, large construction equipment providers and labor are readily available domestically and familiar with installation procedures and practices, and spare parts and service are readily available in the U.S. to properly maintain and operate the system. All warranties must be valid in the U.S.

(4) *Commercial application demonstration of pre-commercial technologies.* In accordance with the definition of ''pre-commercial'' technology found in §4280.103, technical and economic potential for commercial application must be demonstrated to the Agency. In order to demonstrate the system has emerged through research and development as well as the demonstration process, applicants must provide authoritative evidence of the operating history, performance, and reliability past completion of start-up, shakedown, and commissioning. Typically, and in line with financial and operating performance evaluation protocol, the documented operating history, which may be established domestically or outside the U.S., should provide performance data for a minimum of 12 months. The time period will address the economic and technical performance potential of the pre-commercial technology, as defined in §4280.103. Lastly, in accordance with demonstrating the potential for commercial application, applicants must provide evidence that professional service providers, trades, large construction equipment providers, and labor are readily available domestically and sufficiently familiar with installation procedures and practices, and spare parts and service are available in the U.S. to properly maintain and operate the system. Any warranties have to be valid in the U.S.

(b) *Grant application content.* Applications and documentation for projects using the simplified application process, as described in §4280.114, must provide the required information organized pursuant to the Table of Contents in a chapter format presented in